HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.633 OF 2007

Between:

M.Narsing Rao and others

. . .Appellants

AND

The Union Bank of India and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellants : Shri B.N.Swamiji

Counsel for respondent Nos.1 & 2 : Shri P.K.Arjun

23rd August, 2007

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PER G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 26.07.2007 passed by the learned Single Judge in Writ Petition No.15893 of 2007 whereby she declined to interfere with the proceedings initiated by Union Bank of India under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') for recovery of its dues by observing that the writ petitioners have got an effective alternative remedy under Section 17 of the Act.

On 14.08.2007, learned counsel appearing for the appellants gave out that his clients are ready and willing to pay the entire balance amount together with interest provided that they are allowed four months time for the purpose. By taking note of his statement, the Court passed the following order:

> "This appeal is directed against order dated 26.07.2007 passed by the learned Single Judge in Writ Petition No.15893 of 2007, whereby she declined to entertain the appellants' prayer for quashing the proceedings initiated by respondent Nos.1 and 2 under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") on the ground of availability of an effective alternative remedy under Section 17 of the Act.
>
> We have heard Sri B.N.Swamiji for the appellants.
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> Although we entirely agree with the learned Single Judge that the remedy available to the appellants under Section 17 and further remedy available to them under Section 18 of the Act is an effective alternative remedy and there is no extraordinary reason for making a departure from the settled rule that the High Court will not entertain writ petition under Article 226 of the Constitution, if an effective alternative remedy is available to the petitioner, we have felt

tempted to accept the request of the learned counsel for adjournment, because he gave out that the appellants are ready and willing to pay the entire balance amount together with interest, provided some time is given to them. According to the learned counsel, his clients will be in a position to pay the entire balance amount together with interest within a maximum period of four months.

Keeping in view the statement made by the learned counsel, the case is adjourned to 20.08.2007.

If on the next date of hearing the appellants do not furnish written undertaking in the form of affidavit that they will pay the entire balance amount together with interest within a period of four months, the writ appeal will be dismissed.

While adjourning the case, we deem it proper to issue notice to respondent Nos.1 and 2 so that they may appear and file their objections, if any, to the acceptance of the request made on behalf of the appellants for grant of four months time to repay the entire balance amount together with interest.

Personal service is permitted.

A copy of this order be served on respondent Nos.1 and 2 along with the notice.

Till the next date, respondent Nos.1 and 2 shall not take coercive steps in the form of auction of the property of the appellants."

On 20.08.2007, learned counsel for the appellants gave out that his clients have already filed the required undertaking.

Shri P.K.Arjun, learned counsel appearing for the bank says that his clients will have no objection if four months time is allowed to the appellants to deposit the entire balance amount together with interest in terms of the undertaking filed by them in this Court. He, however, submitted that if the appellants fail to honour the undertaking filed in this Court, the bank should be given liberty to proceed with the action initiated under Sections 13 and 14 of the Act.

In our opinion, the request made by the learned counsel for the bank appears reasonable and merits acceptance. Hence, the appeal

is disposed of in the following terms:

1) The appellants shall deposit the entire balance amount together with interest with the bank within four months from today.
2) If the appellants failed to deposit the amount in terms of the undertaking filed in this Court, then the bank shall be free to take all legally permissible measures for recovery of its dues including sale of securities (movable and immovable).

As a sequel to disposal of the writ appeal, WAMP No.1277 of 2007 filed by the appellants for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

23rd August, 2007

C.V.NAGARJUNA REDDY, J

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